AFFIDAVIT OF SPECIAL AGENT JASON D. RYAN

I, Jason D. Ryan, Special Agent with the United States Internal Revenue Service, Criminal Investigation, in Boston, Massachusetts, being duly sworn, depose and state:

INTRODUCTION

1. I am a Special Agent with the United States Internal Revenue Service, Criminal Investigation ("IRS-CI"). I have been so employed since June 2005.

2. My duties as a special agent with the IRS-CI, include conducting investigations involving violations of the Internal Revenue Code, the Bank Secrecy Act, and related offenses. In particular, I have conducted and/or assisted numerous investigations involving tax fraud, money laundering and the illegal structuring of financial transactions. In my capacity as a special agent with IRS-CI, I have received specialized training in many subject areas including but not limited to the following: tax law, criminal law, financial investigative techniques, Money Laundering Control Act violations, and the Bank Secrecy Act violations.

3. I am involved in a joint investigation of Chitron Electronics, Inc. ("CHITRON-US"), a Massachusetts corporation located at 102 Clematis Avenue, Suite 7, Waltham, Massachusetts, and its officers and managers for violations of the Internal Revenue Code and U.S. export laws. The information contained in

this affidavit is based upon my review of documents related to this investigation, including documents obtained via subpoena, interviews conducted, including interviews of two cooperating witnesses ("CW-1" and "CW-2"), and information furnished to me by other law enforcement agents, including special agents employed by the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement ("OEE"), Department of Homeland Security, U.S. Immigration and Customs Enforcement ("ICE") and FBI.

4. I am submitting this affidavit in support of a criminal complaint charging (1) ZHEN ZHOU WU a/k/a ALEX WU ("ALEX WU") with willfully making and subscribing false U.S. Corporation Income Tax Returns (Forms 1120) on behalf of CHITRON-US for tax years 2002-2007 in violation of 26 U.S.C. §7206(1) and making materially false statements to the IRS on Forms 1120, which he filed on behalf of CHITRON-US for tax years 2002-2007 in violation of 18 U.S.C. §1001; and (2) ALEX WU, YUFENG WEI a/k/a ANNIE WEI ("ANNIE WEI"), and BO LI a/k/a ERIC LEE ("ERIC LEE") with conspiring with each other and others to willfully file false Shipper's Export Declarations, in violation of the Export Administration Regulations, 15 C.F.R. §764.2(g)(1)(ii), Executive Order 13222, and the International Emergency Economic Powers Act ("IEEPA), 50 U.S.C. §1705(a).

5. For the reasons detailed below, I believe that there is

probable cause to believe, and do in fact believe, that on or about March 10, 2003 (tax year 2002), June 25, 2004 (tax year 2003), March 11, 2005 (tax year 2004), September 15, 2006 (tax year 2005), March 15, 2007 (tax year 2006), and March 17, 2008 (tax year 2007), ALEX WU did violate Title 26, United States Code, Section 7206(1), by willfully making and subscribing U.S. Corporation Income Tax Returns on behalf of Chitron-US, for the tax years specified, which were verified by a written declaration that they were made under the penalties of perjury and were filed with the Internal Revenue Service, which said corporate income tax returns he did not believe to be true and correct as to every material matter in that they reported no foreign ownership of at least 25%, whereas, as he then and there well knew and believed, the total value of Chitron-US' stock was entirely owned and controlled by one or more foreign persons. I also believe that on or about June 25, 2004, March 11, 2005, September 15, 2006, March 15, 2007, and March 17, 2008, ALEX WU did make a materially false statement on each corporate income tax return filed for tax years 2003-2007 when he stated that no foreign person owned more than 25% of the total voting power of all classes of CHITRON-US' stock or the total value of all classes of stock of CHITRON-US. Lastly, I believe that from no later than July 9, 2005 and continuing through in or about December 2008, ALEX WU, ANNIE WEI, and ERIC LEE did willfully and knowingly violate Executive Order

13222 and the Export Administration Regulations in that they did unlawfully conspire, combine, confederate and agree with each other and others to file, and cause the filing, of false export control documents, including Shipper's Export Declarations, in violation of 50 U.S.C. §1705(a).

6. This affidavit is submitted for the limited purpose of establishing probable cause in support of the application for the requested criminal complaint and associated arrest warrants. Therefore, it does not set forth each and every fact that I have learned during the course of this investigation.

SUMMARY OF THE LAW

A. Tax Fraud and False Statements

7. Section 7206(1) of Title 26, United States Code, prohibits the willful filing of a false federal income tax return. Section 7206(1) makes it illegal for anyone to willfully make and subscribe

> any return, statement or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, which he does not believe to be true and correct as to every material matter[.]

The maximum penalty for each violation of Section 7206(1) is three years imprisonment and a fine of $100,000.

8. In general, the term "subscribe" means to sign one's name to a document. Section 6064 of Title 26 provides, in pertinent part, that "[t]he fact that an individual's name is

signed to a return ... shall be prima facie evidence for all purposes that the return ... was actually signed by him."

9. In the case of an electronically filed return, an electronic signature is "treated for all purposes (both civil and criminal, including penalties for perjury) in the same manner as though signed or subscribed" on a paper tax return. 26 U.S.C. §6061.

10. A "material" matter is one that is likely to affect the calculation of tax due and payable, or capable of influencing a decision of the IRS or its performance of its governmental activities or functions such as monitoring and verifying tax liability. To be "material" it is not necessary that the statement, representation, or omission, in fact, influence or deceive the IRS.

11. Additionally, Section 1001 of Title 18 prohibits the making of any materially false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of the executive, legislative, or judicial branch of the U.S. Government. The maximum penalty for violation of Section 1001 is five years imprisonment and a fine of $250,000.

B. Conspiracy to Violate IEEPA

12. Under IEEPA, 50 U.S.C. §§1701-1706, the President has the authority "to deal with any unusual and extraordinary threat . . . to the national security, foreign policy or economy of the

United States." 50 U.S.C. § 1701. The President deals with unusual or extraordinary threats through Executive Orders, which have the force and effect of law. A violation of an Executive Order is an illegal act punishable under IEEPA, 50 U.S.C. § 1705(a).

13. On August 17, 2001, pursuant to IEEPA, President Bush issued Executive Order 13222 and found that unrestricted access of foreign parties to U.S. goods and technology constituted an unusual and extraordinary threat to the national security, foreign policy, and economy. Consequently, he declared a national emergency to deal with that threat and thereby continued the effect of the Export Administration Regulations ("EAR") despite the expiration of the Export Administration Act of 1979 ("EAA"), as amended, 50 U.S.C. App. §§2401-2420 (1988). Executive Order 13222 directs, among other things, that the EAR "remain in full force and effect." Executive Order 13222 has been extended under IEEPA by successive Presidential Notices, the most recent being that of July 23, 2008, 73 Fed. Register 144 (July 25, 2008).

14. Section 1705(a) of IEEPA provides that

> [i]t shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this chapter.

15. The EAR control exports and re-exports of "dual-use items," that is, commercial items that also have a military

application, to foreign countries. The EAR defines the items that are subject to Commerce controls as including commodities, software, and technology. The Department of Commerce promulgates the EAR and maintains the Commodity Control List, which specifies the goods and technologies that require export licenses.

16. The EAR place limitations on the export of those goods and technology that the Secretary of Commerce deems could make a significant contribution to the military potential of other countries, could prove detrimental to the national security of the United States, or are contrary to the foreign policy of the United States. EAR controls are based not only on the nature of the item but also on its destination, end-use, and end-user.

17. Section 734.3 of the EAR provides that, except for certain enumerated categories, such as items exclusively controlled for export and re-export by the Department of State, Department of Energy, the Department of Treasury's Office of Foreign Asset Control, the U.S. Nuclear Regulatory Commission, or the Patent and Trademark Office, all items made, wholly or in part, in the United States, wherever located, are subject to the EAR.

18. The EAR prohibit any person from exporting or causing the exportation from the United States of a controlled commodity without having first obtained a validated export license from the U.S. Department of Commerce unless an exception applies. Under

the EAR, "[n]o person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required by the EAA, the EAR, or any other, license or authorization issued thereunder." 15 C.F.R. §764.2(b).

19. The EAR also prohibit any person from engaging in any conduct that "is contrary to the EAA, the EAR, or any order, license, or authorization issued thereunder" or conspiring or acting "in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the EAA, the EAR, or any order, license or authorization issued thereunder." 15 C.F.R. §§764.2(2), 764.2(d).

20. The EAR further state that "[n]o person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, finance, forward, or otherwise service, in whole or in part any item exported or to be exported from the United States, or that is otherwise subject to the EAR, with knowledge that a violation of the EAA, the EAR, or any other order, license or authorization issued thereunder has occurred, is about to occur or is intended to occur in connection with the item." 15 C.F.R. §764.2(e).

21. An export is an actual shipment or transmission of items subject to the EAR out of the United States. 15 C.F.R. §734.2(b)(1). A re-export is an actual shipment or transmission

of items subject to the EAR from one foreign country to another foreign country. 15 C.F.R. §734.2(b)(4). "Transshipment" is a term used to describe an export that travels through a second, intermediary country before arriving at its intended, final destination. 15 C.F.R. §734.2(b)(6). Such transshipments are treated as exports to the third country because they were never intended to stay in the second country.

22. For all exports of any commodity valued at or above $2500.00 or for which an export license is required for shipment outside of the United States, an exporter is required to file a Shipper's Export Declaration ("SED"). This document requests information regarding the identities and addresses of the U.S. shipper/exporter, ultimate consignee/end-user, any intermediary consignee or forwarding agent as well as the country of ultimate destination, the export route including ports of export and unloading (import), and a complete description of the item or items being shipped, including their value. An agent of the exporter or shipper is required to sign the SED and certify that the information provided in that document is true and correct. Knowingly providing false or misleading information, or causing such information to be provided, in connection with the preparation and submission of export documents, including SEDs, is a violation of the EAR (15 C.F.R. §764.2(g)(1)(ii)), IEEPA, and 18 U.S.C. §1001.

23. IEEPA makes it a federal felony to violate, or conspire to violate, any regulation within the EAR. See 50 U.S.C. § 1705(c) ("A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of [one of these unlawful acts] ... shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than twenty years, or both."); Executive Order 13222 (continuing the enforceability of EAR under IEEPA).

STATEMENT OF FACTS

I. BACKGROUND OF ALEX WU, ANNIE WEI, AND ERIC LEE

24. ALEX WU is a citizen of the People's Republic of China ("PRC") and resides in Shenzhen, China. Based upon records obtained from Department of State and Department of Homeland Security, Citizenship and Immigration Services ("CIS"), beginning in 1991, ALEX WU obtained various types of visas to enter the United States. From 1991-1994, ALEX WU attended Harvard University, located in Cambridge, Massachusetts. From approximately April 1994 through March 1996, ALEX WU traveled to, and lived in, the United States while employed by two U.S. companies. Between approximately April 1996 and March 1998, while employed by Chitron Electronics Company Limited a/k/a Shenzhen Chi-Chuang Electronics Company Limited, a Chinese

company based in Shenzhen,[1] China ("CHITRON-CHINA"), ALEX WU traveled to the United States on three occasions and stayed for more than 10 months. Since 1998, ALEX WU has traveled intermittently to the United States while serving as the President of CHITRON-US, which he incorporated in Massachusetts in March 1998. During this same period of time, that is, March 1998 through the present, ALEX WU has also remained employed by CHITRON-CHINA.

25. ALEX WU was married to ANNIE WEI from 1988 through 1998. ANNIE WEI is a citizen of the PRC and resides at 165 Beech Street, Belmont, Massachusetts. ANNIE WEI has been employed by CHITRON-US since at least 1999 as its business and finance manager and office manager. In 2004, she was accorded status as a Lawful Permanent Resident ("LPR") of the United States. Prior to becoming a LPR, ANNIE WEI, with the assistance of ALEX WU and CHITRON-US, had obtained a H1-B Visa to work in the United States.

26. On July 27, 2008, when ANNIE WEI returned from a trip to China, an officer of Customs Border Protection interviewed her at the Newark Airport located in New Jersey. ANNIE WEI told the officer that while in China she had visited family in Tinjin and

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[1]Shenzhen is located in what is referred to as Mainland China as opposed to Hong Kong, which, although part of the PRC, is treated differently by the United States' export laws and restrictions.

co-workers (employees of CHITRON-CHINA) in Beijing. She also confirmed that she was still employed by CHITRON-US as its office supervisor and her ex-husband, ALEX WU, continued to serve as its president despite the fact that he resided in China.

27. According to documents obtained and witness interviews conducted, beginning in or about March 1, 2003, ERIC LEE began working for CHITRON-CHINA as its manager for North America Purchasing. In this capacity, ERIC LEE oversaw the procurement of U.S. origin goods from the United States and shipment to customers in the PRC. As a result, ERIC LEE was very familiar with the customers of CHITRON-CHINA and its U.S. office, CHITRON-US. In or about February 2007, ERIC LEE obtained a U.S. work visa to work at CHITRON-US. Upon arriving in the United States, ERIC LEE served as the assistant office manager of CHITRON-US. Since approximately October 2007, he has been serving as CHITRON-US' office manager and export compliance officer. Based upon documents obtained during this investigation and interviews conducted, in these capacities, since 2006, ERIC LEE has been involved in overseeing CHITRON-US' placement of orders with U.S. manufacturers and brokers and the export of U.S. commodities to the PRC. Indeed, ERIC LEE approved and/or signed in excess of 25 SEDs filed with the U.S. government from in or about March 27, 2007 through in or about May 16, 2008, which, as described below, I believe to be false as they represent that the ultimate

consignee of the goods was CHITRON's Hong Kong office and the country of ultimate destination to be Hong Kong when in truth and in fact the goods were transshipped to Mainland China through Hong Kong.

II. BACKGROUND OF CHITRON-US

28. On March 11, 1998, ALEX WU incorporated CHITRON-US, which he described as an "electronics business," as a Massachusetts corporation. Since being incorporated in 1998, CHITRON-US has operated as an electronics reseller whose customers, as described below, were principally located in the PRC. Based upon documents obtained during this investigation and witness interviews, CHITRON-US has, over the last ten years, purchased millions of dollars worth of electronics components and commodities from U.S. manufacturers and exported them to affiliated companies and customers in China.

29. Documents obtained during this investigation, including many found in the files of U.S. Department of Homeland Security and U.S. Department of State demonstrate a close relationship between CHITRON-US and CHITRON-CHINA. At a minimum, the documents and information obtained during this investigation establish that CHITRON-US is not an independent, domestic corporation, but rather is a wholly owned and/or controlled subsidiary of CHITRON-CHINA.

30. On March 3, 1999, ALEX WU attempted to enter the United

States through the Port of Champlain, New York and filed an application for admission. In support of this application, ALEX WU provided several documents relating to his work for CHITRON-US. He submitted correspondence bearing the letterhead of Chitron Electronics Company Limited, Suite #1916, Huatong Building, Sungang Rd., Shenzhen, China. This letter, which was dated March 2, 1999, appears to be signed by Wei Pan, who was allegedly the President of CHITRON-CHINA at that time. According to this letter, ALEX WU was working full-time for CHITRON-CHINA and was attempting to enter the United States pursuant to his employment. It further stated that ALEX WU "established a Massachusetts corporation name[d] as Chitron Electronics, Inc., on our behalf in March 1998."

31. ALEX WU also produced a marketing document of CHITRON-US that described its activities as a supplier of "high quality advanced electronic components" to China accomplished through the export of U.S. manufactured goods to CHITRON-US' "sole distributor, Chi-Chuang Electronics Company Limited in Shenzhen, China." According to CW-1, "Chitron" is a transliteration of the Chinese word "Chi-Chuang."

32. Prior to deciding whether to admit ALEX WU into the United States, on March 3, 1999, an Immigration Examiner

interviewed him and asked him several questions[2] regarding CHITRON-US. At that time, ALEX WU described CHITRON-US as an electronic component reseller. He stated that CHITRON-US "purchases electronic components and exports them to China." During this interview, ALEX WU also stated that he owned 30% of CHITRON-US and that the remainder was owned by CHITRON-CHINA.[3] Because ALEX WU refused to sign the sworn statement generated during this interview, the then U.S. Immigration and Naturalization Service denied him entry into the United States.

33. More recently, on or about April 29, 2008, ALEX WU filed an H1-B Visa Application with the U.S. Department of State. On his Visa Application, ALEX WU indicated that he is presently employed as the President of CHITRON-US and the purpose of his trip was "work for Chitron Electronics, Inc." In connection with this application, ALEX WU submitted a current resume to the U.S. Department of State. According to his resume, ALEX WU has served as the President of CHITRON-CHINA since its inception in April

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[2]These questions and answers were typed up in the form of a sworn statement.

[3]He referred to CHITRON-CHINA as "Chi-Chuang Electronics Company, LTD. of Shenzhen, China" during the interview. As indicated above, CW-1 advised that "Chitron" is a transliteration of "Chi-Chuang," a Chinese word. Further, my review of documents in this case indicates that "Chi-Chuang Electronics" is indeed "CHITRON-CHINA" as the company shares the same address, contact numbers, and website.

1996. Further, according to his resume, in this role he has:

- Manag[ed] the company [referring to CHITRON-CHINA] from its start-up to a well established company, purchasing electronic components from USA and selling to China, with sale revenue US$4 millions in year 2000 (2.5 from US and 1.5 from other areas); . . .

- Supervised and coordinated business with **Chitron USA** to **import all** its purchased goods **into China**; . . .

- Direct[ed] and controll[ed] all aspects of the electronics import company, especially all business and marketing functions; and

- Controll[ed] and direct[ed] the company's interaction with Chinese and US government regulators.

(emphasis added)

34. As described in his resume, ALEX WU remains in control of CHITRON-US even when he is in China. This fact was also confirmed by ANNIE WEI during a July 27,2008 CBP interview after she returned to the United States from a trip to China.

35. In striking contrast to these representations to federal officials, CHITRON-US filed a Statement of Change of Supplemental Information with the Massachusetts Secretary of State on June 11, 2008, which indicated that ALEX WU would no longer be serving as its President, Treasurer, and Secretary. Those functions would now be served by Ross Terrill ("Terrill"), an author and adjunct Harvard professor in the area of East Asian Studies, who has been listed as a director of CHITRON-US since its incorporation. According to CW-1, a former manager of

CHITRON-US for approximately four years, Terrill has never been involved in CHITRON-US' day to day operations. This statement is corroborated by Terrill's own statements to CBP during a November 2008 interview after returning to the United States from a trip overseas. During that interview, Terrill was asked about his employment. In answering this question, Terrill omitted any reference to CHITRON-US.

III. CHITRON's WEBSITE

36. Both CHITRON-US and CHITRON-CHINA share the same website, www.chitron.com. During the course of this investigation, I have reviewed copies of this website dating back to 2004. Based upon my review of Chitron's website on various dates in 2007 and 2008, it currently has six offices, five located in China and one in the United States. Its headquarters are located in Shenzhen, China. Its Chinese offices are located in Shanghai, Mianyang, Beijing, and Hong Kong. Its single United States office is located in Waltham, Massachusetts.

37. The 2007 and 2008 versions of Chitron's website make clear that the majority of its operations were handled in Shenzhen where according to its website "100 employees" worked. In comparison, only "4 employees" worked at Chitron-US while 8 employees worked at the Shanghai location and 20 at the Mianyang location.

38. Based upon my review and analysis, the contents of the

website have largely remained unchanged between 2004-2008. For instance, the website has always indicated that Chitron's headquarters were located in Shenzhen, China, and referred to the United States office located in Waltham, Massachusetts as Chitron's "USA branch."

39. Since in or about November 2005, Chitron's website has described the company as "one of the earliest and largest distributors of electronic components in China" and stated that "Chitron's specialty is its ability to procure military and industrial as well as hard to find and obsolete parts."

40. Until in or about October 2007, Chitron's website had indicated that its only customers were located in China. For instance, the July 5, 2007 version of Chitron's website stated "[t]oday, we serve thousands of customers in China."

IV. CHITRON-US' CORPORATE TAX RETURNS

41. Beginning in 1999, ALEX WU signed each of CHITRON-US' corporate income tax returns, Forms 1120, as its President under the penalties of perjury.[4] These returns requested similar information regarding CHITRON-US, including its assets, gross sales, total income, taxable income, compensation of officers and foreign ownership. As specified below, each of these returns

[4]ALEX WU electronically signed CHITRON-US' corporate tax returns for 2005, 2006, and 2007. As explained above, an electronic signature, however, is treated the same as a signature on a paper tax return.

indicated that ALEX WU owned "100%" of the common stock of Chitron-US. In these same returns, however, ALEX WU claimed that no foreign person owned more than 25% of CHITRON-US' stock.

42. Question 7 of Schedule K of Form 1120 for tax years 1999 to 2007 contained the same exact question:

> At any time during the tax year, did one foreign person own, directly or indirectly, at least 25% of (a) the total voting power of all classes of stock of the corporation entitled to vote or (b) the total value of all classes of stock of the corporation?

43. As reflected below, ALEX WU answered "no" to this question on **every** corporate tax return of CHITRON-US, including those for tax years 2002, 2003, 2004, 2005, 2006, and 2007:

Date of offense	**Tax Year**	**Gross Sales**	**Taxable Income**	**Answer to Q7 of Sch. K - Any foreign ownership of 25% or more**
3/10/03	2002	$1,549,609	$39,498	No
6/25/04	2003	$2,844,445	$25,077	No
3/11/05	2004	$3,944,246	$34,990	No
9/15/06	2005	$5,462,305	$18,085	No
3/15/07	2006	$6,453,214	$11,759	No
3/17/08	2007	$7,593,442	$ 9,847[5]	No

44. None of these tax returns disclosed the fact that the

[5]ALEX WU reported low net profits for CHITRON-US on these tax returns in comparison to the industry average. For instance, in 2007 ALEX WU claimed CHITRON-US' net profit was approximately five percent of its gross sales whereas the industry average was at least 15%.

owner[6] of CHITRON-US -- ALEX WU -- was a foreign person, although the corporation was required to disclose such information. In Schedule E of the very same tax returns, ALEX WU disclosed that he, a person to whom the U.S. government had assigned social security number 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, owned 100% of the total value of CHITRON-US' common stock. According to CHITRON-US' Articles of Incorporation, CHITRON-US has issued only one class of stock -- common.

45. I believe ALEX WU willfully answered Question 7 of Schedule K falsely. ALEX WU has never applied to become a lawful permanent resident or citizen of the United States; he is a citizen of the PRC. Consequently, as he well knew, he constituted a foreign person.

46. ALEX WU personally filed non-resident alien tax returns (Forms 1040NR) for tax years 2002-2007 using a different tax preparer than that he retained to prepare the corporate tax returns for CHITRON-US. In my experience, it is unusual for a president of a closely-held corporation to hire two different tax preparers, one to prepare the return for the corporation and

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[6]As discussed above, ALEX WU previously told an Immigration Examiner on March 3, 1999 that he owned 30% of CHITRON-US and the remainder was owned by CHITRON-CHINA. Even if that were true, the tax returns filed by ALEX WU would still be false. As both ALEX WU and CHITRON-CHINA would constitute foreign persons who own at least 25% of CHITRON-US and thus, their identities as foreign shareholders were required to be disclosed to the IRS on the Forms 1120.

another for the president's individual return.

47. I also believe the corporate income tax returns of CHITRON-US, which ALEX WU signed under the penalty of perjury, were false as to a material matter -- the foreign ownership of CHITRON-US. Had ALEX WU answered the questions correctly, he would have been required to specify each foreign person who owned at least 25% of CHITRON-US' stock and the "owner's country" of citizenship.

48. Additionally, CHITRON-US was also required to file a Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, with each of its corporate income tax returns. A U.S. corporation must file a Form 5472 with its annual income tax return if (1) a foreign person owns 25% or more of its stock and (2) it had a reportable transaction with its foreign shareholder(s). A reportable transaction includes the exchange or payment of any money or property (except the payment of dividends) to the foreign shareholder. Accordingly, the payment of compensation for services would qualify as a reportable transaction that gives rise to the corporate obligation to file IRS Form 5472.

49. Based upon the information supplied in CHITRON-US' Forms 1120 tax returns and ALEX WU's personal non-resident income tax returns, CHITRON-US annually paid ALEX WU money in the form

of compensation since its incorporation in 1998. During the period 2002-2007, CHITRON-US paid ALEX WU the following amounts:

2002 - $33,750
2003 - $38,942
2004 - 27,519
2005 - 18,173
2006 - 10,385
2007 - 7,788

Thus, CHITRON-US was required to file a Form 5472 with its tax returns in 2002, 2003, 2004, 2005, 2006, and 2007 but it never made such filings. To the contrary, ALEX WU concealed CHITRON-US' international transactions from the IRS through his false misrepresentations and omissions.

50. Because the Form 5472 form is necessary for the IRS to adequately determine corporate tax liability, the IRS imposes a $10,000 fine for failure to file Form 5472. Thus, ALEX WU's false statements to the IRS regarding foreign ownership deprived the IRS of the information it needed to properly review CHITRON-US' corporate tax liability.

V. AFFECT OF ALEX WU'S FALSE STATEMENTS ON PROCESSING OF RETURNS

51. During this investigation, I have obtained information from experts employed by the IRS in areas of corporate and international taxation. Based upon this information and my experience, I know that all corporations doing business in the United States, regardless of whether they are domestic or foreign, are subject to U.S. income taxation.

52. Unless exempt under Section 501 of the Internal Revenue Code, all domestic corporations, that is, corporations organized under the laws of any state or territory of the United States, must file an income tax return, Form 1120, on an annual basis whether or not they have taxable income in that tax year. Forms 1120 are filed in the IRS offices in Cincinnati, Ohio or Ogden, Utah.

53. Once received, the corporate tax returns are reviewed for certain markers and coded. If the return discloses any foreign ownership or interest in the corporation or that the corporation has engaged in any foreign transactions, including transactions with any foreign shareholders, it is coded as an international return and mandatorily referred to the IRS' International Group, which is located at the IRS office in Ogden, Utah, for processing.

54. After being received by the IRS' International Group, corporate returns are selected for review and/or audit. Each year approximately 25% of the corporate tax returns filed with the IRS are audited. These audits are often very detailed and require the corporation to produce volumes of financial data to the IRS. Under established IRS' procedures, foreign subsidiaries and foreign controlled corporations are more likely to be audited and subjected to higher scrutiny because of the increased probability of tax abuse and fraud, largely driven by a

corporation's incentive to shift its taxable income away from the United States.

55. As a result of ALEX WU's false statements, the IRS was deprived of its ability to annually assess and review CHITRON-US' corporate tax returns. If the IRS had the opportunity to review CHITRON-US' Forms 1120 tax returns pursuant to its normal operating procedures in effect between 2002-2008, there would have been a greater probability of an audit of CHITRON-US' returns on at least one occasion over a period of six years.

VI. CHITRON-US FILED FALSE SEDS

56. According to the SEDs filed by CHITRON-US, or UPS as its agent, during the period of January 1, 2003 through October 18, 2008, which were reviewed during this investigation using the Automated Export System,[7] CHITRON-US made a total of 653 exports overseas. CHITRON-US made 636 shipments from the United States to Hong Kong. According to the SEDs CHITRON-US filed, or caused to be filed, during that same period of time, CHITRON-US also exported one shipment to Mainland China. Of CHITRON-US' 636 Hong Kong shipments, according to its SEDs, 351 of them went to CHITRON's Hong Kong Branch; 133 shipments went to New Technology

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[7]Using this system, the contents of each SED filed by CHITRON-US are accessible but not the signatory of each SED. During this investigation, we have separately obtained hard copies of the majority of SEDs that were filed between 2005 and June 2008. Based upon this review, ANNIE WEI and ERIC LEE both signed and/or approved false SEDs, most recently in May 2008.

Company ("New Technology"); 8 went to Hope Sea Electronics Company ("Hope Sea"); and 109 went to Tung-D International Company, Limited ("Tung-D").

57. During the course of this investigation, CW-1, a former CHITRON-US manager who worked there for approximately four years has provided information about CHITRON-US' customers, procurement of U.S. origin goods, and shipment practices. Much of this information has been corroborated by interviews of other witness and documents obtained during this investigation.

58. CW-1 reported that during 2002-2007, approximately 95% of CHITRON-US' customers were located in Mainland China. For the most part, however, according to CW-1, employees at CHITRON-US did not know the identity of the actual end user in China. CW-1 indicated that employees of CHITRON-CHINA communicated with the end users in China and either (1) instructed employees of CHITRON-US to purchase products from U.S. manufacturers and ship them to China or (2) employees of CHITRON-CHINA directly communicated with U.S. manufacturers and instructed that any ordered products be delivered to CHITRON-US.

59. Upon receipt of ordered products from U.S. manufacturers, CW-1 explained that someone at CHITRON-US would inspect the products and segregate the products as either taxable or non-taxable to export to Mainland China under Hong Kong law. According to CW-1, CHITRON-CHINA employees provided instructions

as to whether an item was taxable or non-taxable.
These orders were consolidated and approximately twice a week the products, worth approximately $20,000-40,000, were shipped from CHITRON-US to Hong Kong via United Parcel Service ("UPS"). UPS records obtained during this investigation confirm CW-1's recollection of the frequency of CHITRON-US' shipments to Hong Kong.

60. Prior to late 2005, CW-1 recalled shipping orders to three Hong Kong companies, Hope Sea, Tung-D, and New Technology, at the instruction of ALEX WU or ANNIE WEI. Based upon his/her observations and conversations with ALEX WU and ANNIE WEI, CW-1 believed that these companies were merely used by CHITRON-US as freight forwarders, *i.e.*, transhippers to the PRC.

61. Similarly, another former manager of CHITRON-US, CW-2, who worked there for approximately four years provided largely identical information. CW-2 indicated that CHITRON-US' sales originated at CHITRON-CHINA located in Shenzhen, China. CW-2 explained that employees of CHITRON-CHINA received orders from Chinese companies for U.S. products. During CW-2's employment at CHITRON-US, ANNIE WEI instructed CW-2 that all shipments of U.S. products ordered by CHITRON-CHINA's customers were to be delivered to the Waltham office. Upon receipt of the U.S. products, CHITRON-US consolidated the products and exported them to one of two companies located in Hong Kong, Hope Sea or New

Technology. CW-2 advised that such shipments occurred on at least a monthly, if not weekly, basis. CW-2 recalled ANNIE WEI telling him/her that Hope Sea and New Technology were used as freight forwarders in Hong Kong to ship the products to the actual customers and ultimate end users in mainland China. Additionally, based upon his/her own conversations with ALEX WU and the practices he/she observed at CHITRON-US, CW-2 did not believe that New Technology and Hope Sea were the ultimate consignees of these exports.

62. Sometime in late 2005 or early 2006, CW-1 indicated that Chitron opened a small office in Hong Kong, which he/she visited in 2006 and 2007. CW-1 described the main function of the Hong Kong facility as purely logistic; it did not generate any sales nor did it manufacture any product. It was set up to act as a freight forwarder and receive shipments from CHITRON-US. Upon receipt, the one full-time employee at the Hong Kong office separated the commodities into one of two groups, taxable or non-taxable, to arrange for the payment of PRC taxes, and shipped the goods to CHITRON-CHINA located in Shenzhen, PRC.

63. According to both CW-1 and CW-2, ALEX WU managed and controlled the operations of CHITRON-US even while he was not in the United States. ANNIE WEI supervised CHITRON-US' operations.

64. ANNIE WEI instructed CW-1 how to complete SEDs. She told CW-1 that if the sale of any one line item on a CHITRON-US

invoice was over $2500, an SED had to be completed. On each SED, ANNIE WEI further instructed CW-1 to: (1) list Hong Kong as the country of ultimate destination; (2) list either CHITRON's Hong Kong office or a Hong Kong freight forwarder as the ultimate consignee; and (3) use the abbreviation "NLR"[8] in the box requesting license information. Based upon the witness interviews conducted during this investigation, I believe this information was false as CHITRON-US merely used Hong Kong as a means to transship U.S. origin goods to the Shenzhen, PRC without obtaining any required export licenses. Moreover, CW-1 could not recall CHITRON-US having any customers in Hong Kong.

65. ERIC LEE approved and/or signed in excess of 25 SEDs filed with the U.S. government from in or about March 27, 2007 through in or about May 16, 2008, which falsely indicated that the ultimate consignee was CHITRON'S Hong Kong office. According to CW-1, ERIC LEE was well aware as a result of his work at CHITRON-CHINA that the vast majority of CHITRON-US' customers were in Mainland China. He was further aware that the main function of CHITRON's Hong Kong office was logistics and transhipping products to CHITRON's Shenzhen headquarters where the products would be sent to their true end users. Thus, I have probable cause to believe ERIC LEE agreed, or engaged in a

[8] I am aware that this acronym refers to the phrase "no license required."

concerted and coordinated effort, with ANNIE WEI and ALEX WU, to sign, and cause the filing of, SEDs knowing them to be false.

66. Based upon my understanding from witness interviews that CHITRON's Hong Kong office served as a transhipment point or shipping room and not the ultimate end user of any electronic components or other products, I believe that each SED submitted by CHITRON-US that identified CHITRON's Hong Kong office as the ultimate consignee was false and misleading in violation of the EAR, IEEPA, and 18 U.S.C. §1001.

67. Further, based upon the information obtained during this investigation I do not believe New Technology, Hope Sea and Tung-D, all located in Hong Kong, were in fact the ultimate consignees or end users of the products shipped by CHITRON-US. They were merely freight forwarders for the final purchasers located in mainland China. Thus, all of the SEDs filed by CHITRON-US that identified any of these companies as the ultimate consignees or end users were also false and violated the provisions of the EAR, IEEPA, and 18 U.S.C. §1001.

CONCLUSION

68. Based upon the above, and on my training and experience, I have probable cause to believe, and do in fact believe, that ZHENZHOU WU a/k/a ALEX WU:

(a) on or about March 10, 2003 (tax year 2002), June 25, 2004 (tax year 2003), March 11, 2005 (tax year

2004), September 15, 2006 (tax year 2005), March 15, 2007 (tax year 2006), and March 17, 2008 (tax year 2007), willfully made and subscribed U.S. Corporation Income Tax Returns on behalf of Chitron-US, for the tax years specified, which were verified by a written declaration that they were made under the penalties of perjury and were filed with the Internal Revenue Service, which said corporate income tax returns he did not believe to be true and correct as to every material matter in that they reported no foreign ownership of at least 25%, whereas, as he then and there well knew and believed, the total value of Chitron-US' stock was entirely owned and controlled by one or more foreign persons in violation of 26 U.S.C. §7206(1); and

(b) made false statements of material fact to the Internal Revenue Service in June 2004, March 2005, September 2006, March 2007, and March 2008 when he falsely claimed that no foreign person owned, directly or indirectly, at least 25% of the total voting power of CHITRON-US' stock or the total value of all classes of CHITRON-US' stock in violation of 18 U.S.C. §1001.

69. I also have probable cause to believe, and do in fact believe that beginning no later than July 2005 and continuing through in or about December 2008, ALEX WU, ANNIE WEI, and ERIC

LEE did willfully and knowingly violate Executive Order 13222 and the Export Administration Regulations in that they did unlawfully conspire, combine, confederate and agree with each other and others to file, and cause the filing of, false export control documents, including Shipper's Export Declarations, in violation of 50 U.S.C. §1705(a).

JASON D. RYAN
Special Agent
Internal Revenue Service, Criminal Investigation

Sworn to me and subscribed in my presence this ____ day of December 2008.

ROBERT B. COLLINGS
United States Magistrate Judge